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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,414	03/12/2004	Carline Smith	090-003	7051
7550 Ward & Olivo Suite 300 382 Springfield Avenue Summit, NJ 07901			EXAMINER VETTER, DANIEL	
			ART UNIT 3628	PAPER NUMBER
			MAIL DATE 03/24/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/800,414

Applicant(s)

SMITH, CARLINE

Examiner

DANIEL VETTER

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Status of the Claims

1. Claims 1-22 were previously pending. Claims 1, 12, 15 were amended, and new claim 23 was added in the reply filed February 2, 2010. Claims 1-23 are currently pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 2, 2010 has been entered.

Response to Arguments

3. Applicant's arguments with respect to the rejections made under § 103(a) have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 23 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

6. Claim 23 is directed to a "system" not embodied on any tangible storage media, and the body of the claim merely recites descriptive material. While the claim recites an "interface," the disclosure describes various interfaces including software interfaces. The claim is not limited to an interface that includes hardware. As the only other element in the system is a "database," Examiner interprets these claims as

encompassing software *per se* (i.e., program code not stored or processed on any physical media). Functional descriptive material such as a computer program must be structurally and functionally interrelated with a medium to allow its intended uses to be realized. Accordingly, claims directed to software *per se* are not patentable subject matter. *In re Warmerdam*, 33 F.3d 1354, 1361, 31 USPQ2d 1754, 1760 (Fed. Cir. 1994). See MPEP § 2106.01 for further guidance and discussion on computer-related nonstatutory subject matter.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese, et al., U.S. Pat. Pub. No. 2001/0016825 (Reference A of the PTO-892 part of paper no. 20070406) in view of Quackenbush, et al., U.S. Pat. No. 6,512,964 (Reference A of the attached PTO-892), Block, et al., U.S. Pat. Pub. No. 2003/0055689 (Reference A of the PTO-892 part of paper no. 20081124) and Rouston, et al., U.S. Pat. Pub. No. 2001/0037243 (Reference E of the PTO-892 part of paper no. 20070406).

9. As per claim 1, Pugliese teaches a method of providing automated reservations comprising the steps of: interacting with a plurality of users including a first user and a second user via a system (§§ 0011); authenticating said first user utilizing one or more forms of identification data provided by said first user to said system to access an awards account (§§ 0011, 74); acquiring itinerary data from said first user (§§ 0067); querying an itinerary database with said itinerary data and receiving a plurality of itineraries (§§ 0040, 0081); providing to said first user a plurality of itineraries (§§ 0040); allowing said first user to select an itinerary from said plurality of itineraries (§§ 0040); querying an awards database to determine if said first user has sufficient awards in said

awards account (§§ 0074-75); and acquiring payment information from said first user for said selected itinerary (§ 0040).

Although Pugliese teaches the presence of baggage and storing information regarding it (§ 0014), it does not explicitly teach acquiring baggage data from said second user; and querying a baggage database for stored baggage information related to said baggage data; which are taught by Quackenbush (col. 3, lines 48-60; col. 5, line 54 – col. 6, line 4). It would have been *prima facie* obvious to one having ordinary skill in the art at the time of invention to incorporate this feature for the same reason it is useful in Quackenbush—namely, assisting a user in tracking baggage. Moreover, this is merely a combination of old elements in the art of travel systems. In the combination, no element would have served a purpose other than it already did independently, and one skilled in the art would have recognized that the combination could be implemented through routine engineering producing predictable results. Examiner notes that both Pugliese and Quackenbush are configured for multiple users, thus both meet the requirement that the system include first and second users.

Neither Pugliese nor Quackenbush teaches that the system used to interact with a user is an automated interactive voice response system (although both Pugliese (§§ 0039-40) and Quackenbush (col. 3, line 40) note the use of a telephone interface to interact, col. 3, line 40); which is taught by Block (§ 0010). Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself—that is, in the substitution of the automated interactive voice response system in Block for the systems used to interact with the user taught by Pugliese and Quackenbush. The systems share similar characteristics and functions, and all are disclosed as processing the same types of travel-related data. It would have been *prima facie* obvious to one having ordinary skill in the art at the time of invention to incorporate an automated interactive voice response system because it is merely the simple substitution of one known element for another that could be implemented through routine engineering producing predictable results.

While Pugliese teaches determining if said user has sufficient awards in said awards account for certain goods/services (§§ 0074-75), it does not explicitly teach determining if said user has sufficient awards in said awards account for an itinerary; which is taught by Rouston (§ 0035). Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself—that is, in the substitution of the itinerary awards purchase in Rouston for the awards purchase of other goods taught by Pugliese. Both are disclosed as purchases of goods and are bought using a travel-related awards account. It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate itinerary awards purchases because it is merely the simple substitution of one known element for another that could be implemented through routine engineering producing predictable results.

10. As per claim 2, Pugliese in view of Quackenbush, Block and Rouston teaches the method of claim 1 as described above. Pugliese further teaches confirming said selected itinerary (§ 0068).

11. As per claim 3, Pugliese in view of Quackenbush, Block and Rouston teaches the method of claim 1 as described above. Pugliese further teaches placing said selected itinerary on hold (§ 0067); and providing said user a reference number indicative of said itinerary (Abstract).

12. As per claim 4, Pugliese in view of Quackenbush, Block and Rouston teaches the method of claim 1 as described above. Pugliese further teaches said user interacts with said system utilizing vocal responses (§§ 0011, 40 - use of a telephone). Block further teaches that the system is an automated interactive voice response system (§ 0010), which would have been obvious to incorporate for the same reasons set forth above with respect to claim 1.

13. As per claim 5, Pugliese in view of Quackenbush, Block and Rouston teaches the method of claim 1 as described above. Pugliese further teaches assigning seats to said user for said selected itinerary (§ 0051).

14. As per claim 7, Pugliese in view of Quackenbush, Block and Rouston teaches the method of claim 1 as described above. Pugliese further teaches said itinerary data includes one or more of the group consisting of a departure date, an arrival date, a departure time, an arrival time, departure location, arrival destination, number of passengers, class of service, and seating preference (§ 0067).

15. As per claim 8, Pugliese in view of Quackenbush, Block and Rouston teaches the method of claim 1 as described above. Pugliese further teaches said identification data is biometric data (§ 0068).

16. As per claim 9, Pugliese in view of Quackenbush, Block and Rouston teaches the method of claim 8 as described above. Block further teaches that the identification data is voice data (§ 0223). It would have been prima facie obvious to incorporate voice data as identification data because it is the simple substitution of one type of identification data for another (i.e., the types taught by Pugliese), that could have been implemented through routine engineering producing predictable results.

17. As per claim 10, Pugliese in view of Quackenbush, Block and Rouston teaches the method of claim 1 as described above. Pugliese further teaches wherein said identification data is at least one of the group consisting of a user's name, a personal identification number, a social security number, a telephone number, a birth date, and a frequent flyer number (§ 0044).

18. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese, et al. in view of Quackenbush, et al., Block, et al. and Rouston, et al. as applied to claim 1 above, further in view of Trader, et al., U.S. Pat. No. 5,854,837 (Reference B of the PTO-892 part of paper no. 20070406).

19. As per claim 6, Pugliese in view of Quackenbush, Block and Rouston teaches the method of claim 1 as described above. Pugliese further teaches that the user speaks to an operator (§ 0040) but does not explicitly teach that the user is transferred to the operator upon request. Trader teaches the user is transferred to the operator upon request (col. 1, line 23). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the user is transferred to

the operator upon request in order to give the user additional help or information (as taught by Trader; col. 1, line 24). Moreover, this is merely a combination of old elements. In the combination no element would have served a function other than it already did independently, and one skilled in the art would have recognized that the combination could be implemented through routine engineering producing predictable results.

20. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese, et al. in view of Quackenbush, et al., Block, et al. and Rouston, et al. as applied to claim 1 above, further in view of Lambert, et al., U.S. Pat. No. 6,282,649 (Reference D of the PTO-892 part of paper no. 20070406).

21. As per claim 11, Pugliese in view of Quackenbush, Block and Rouston teaches the method of claim 1 as described above. Pugliese in view of Quackenbush, Block and Rouston does not explicitly teach said awards database is a look-up table. Lambert teaches said awards database is a look-up table (col. 1, line 58). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate said awards database is a look-up table in order to identify a user and his/her access authority (as taught by Lambert; col. 1, lines 58-60). Moreover, this is merely the simple substitution of one type of database (the LUT in Lambert) for another (the database in Pugliese), that could have been implemented through routine engineering producing predictable results.

22. Claims 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combinations of Pugliese, Quackenbush, Block, Rouston, Trader, and Lambert set forth above regarding claims 1-11.

23. In the reply filed August 13, 2009, Applicant traversed the restriction of claims 1-11 from claims 12-22 by setting forth that the inventions are obvious variants of each other. The additions to claim 12 contained the same limitations as the additions to claim 1 in the reply filed February 5, 2010. As such, Applicant's statement on the record

clearly indicates claims 12-22 are not patentably distinct from claims 1-11 rejected above, and are therefore rejected on the same grounds for the same reasons.

24. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese, et al. in view of Quackenbush, et al., Block, et al. and Rouston, et al.

25. As per claim 23, Pugliese recites a system, comprising: (a) one or more databases (Fig. 5), together comprising: (i) identification data for one or more users (Fig. 5); (ii) awards account information for a first user of said one or more users (Fig. 5); (iii) itinerary information (Fig. 5); (iv) payment processing information (Fig. 5); and (v) baggage information (Fig. 5); (b) a telephone interface (Fig. 3) configured to: (i) authenticate said first user utilizing one or more forms of identification data provided by said first user to said system (§§ 0068); (ii) acquire itinerary data from said first user (§§ 0040, 67); (iii) query said one or more databases with said itinerary data (§§ 0040, 81); (iv) provide said first user with one or more itineraries from said one or more databases (§§ 0040); and (v) query said one or more databases to determine if said first user has sufficient awards in an awards account (§§ 0074-75).

Although Pugliese teaches the presence of baggage and storing information regarding it (§§ 0014), it does not explicitly teach that the interface is configured to: (vi) receive a baggage inquiry from a second user of said one or more users; and (vii) query said one or more databases for baggage information related to said baggage inquiry from said second user; which are taught by Quackenbush (col. 3, lines 48-60; col. 5, line 54 – col. 6, line 4). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate this feature for the same reason it is useful in Quackenbush—namely, assisting a user in tracking baggage. Moreover, this is merely a combination of old elements in the art of travel systems. In the combination, no element would have served a purpose other than it already did independently, and one skilled in the art would have recognized that the combination could be implemented through routine engineering producing predictable results. Examiner notes that both Pugliese and Quackenbush are configured for multiple users, thus both meet the requirement that the system include first and second users.

Neither Pugliese nor Quackenbush teaches that the system used to interact with a user is an interactive voice response system (although both Pugliese (¶¶ 0039-40) and Quackenbush (col. 3, line 40) note the use of a telephone interface to interact); which is taught by Block (¶ 0010). Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself—that is, in the substitution of the automated interactive voice response system in Block for the systems used to interact with the user taught by Pugliese and Quackenbush. The systems share similar characteristics and functions, and all are disclosed as processing the same types of travel-related data. It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate an automated interactive voice response system because it is merely the simple substitution of one known element for another that could be implemented through routine engineering producing predictable results.

While Pugliese teaches determining if said user has sufficient awards in said awards account for certain goods/services (¶¶ 0074-75), it does not explicitly teach determining if said user has sufficient awards in said awards account for an itinerary; which is taught by Rouston (¶ 0035). Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself—that is, in the substitution of the itinerary awards purchase in Rouston for the awards purchase of other goods taught by Pugliese. Both are disclosed as purchases of goods and are bought using a travel-related awards account. It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate itinerary awards purchases because it is merely the simple substitution of one known element for another that could be implemented through routine engineering producing predictable results.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tuttle, U.S. Pat. No. 6,509,829 (Reference B of the attached PTO-892) teaches a baggage tracking system.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL VETTER whose telephone number is (571)270-1366. The examiner can normally be reached on Monday - Thursday 8:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on (571)272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DPV/

/JOHN W HAYES/

Supervisory Patent Examiner, Art Unit 3628